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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,599	01/30/2004	Bernardo Ayala	BA01-01U	5201
37038	7590	07/05/2005	EXAMINER	
BUHLER ASSOCIATES BUHLER, KIRK A. 2687 SCENIC CREST LANE CORONA, CA 92881			ROYAL, PAUL	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/767,599

Applicant(s)

AYALA, BERNARDO

Examiner

Paul Royal

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 10 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-9 and 12-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 04/18/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed on 04/18/05 has been entered.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 04/18/05 has been considered by the examiner.

### ***Claim Objections***

3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims beginning at the second occurrence of claim 10 have been renumbered 11-22.

Note applicant has repeatedly presented misnumbered claims. Further submission of mis-numbered claims, where applicant has now twice been advised to present correct claim numbering, may be considered a non-responsive amendment.

***Specification***

4. The disclosure is objected to because of the following informalities: In the specification at page 7, line 6, applicant states, in relevant part, "... the light source is a cadmium cell that changes resistance ...". As best understood by the Examiner, the cadmium cell is a light "sensor" not a light "source" because where the resistance of the cadmium cell changes based upon the intensity of light which it senses, the cadmium cell is not understood to also be the source of the light.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-9, 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warner (US 5,313,724) in view of Smallegan (US 3,968,355).

Warner teaches a picture frame with integrated power control and lighting comprising;

a frame structure (12) capable of retaining a replaceable image (11),  
at least one power storage device/battery (18) located within the frame structure (12), as well as an external power source (20) located external to the frame structure,

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a power control device (19) located within the frame structure (12),

at least one light source (17) located in front of the image located within the frame structure such that light can shine on the front of the image, and

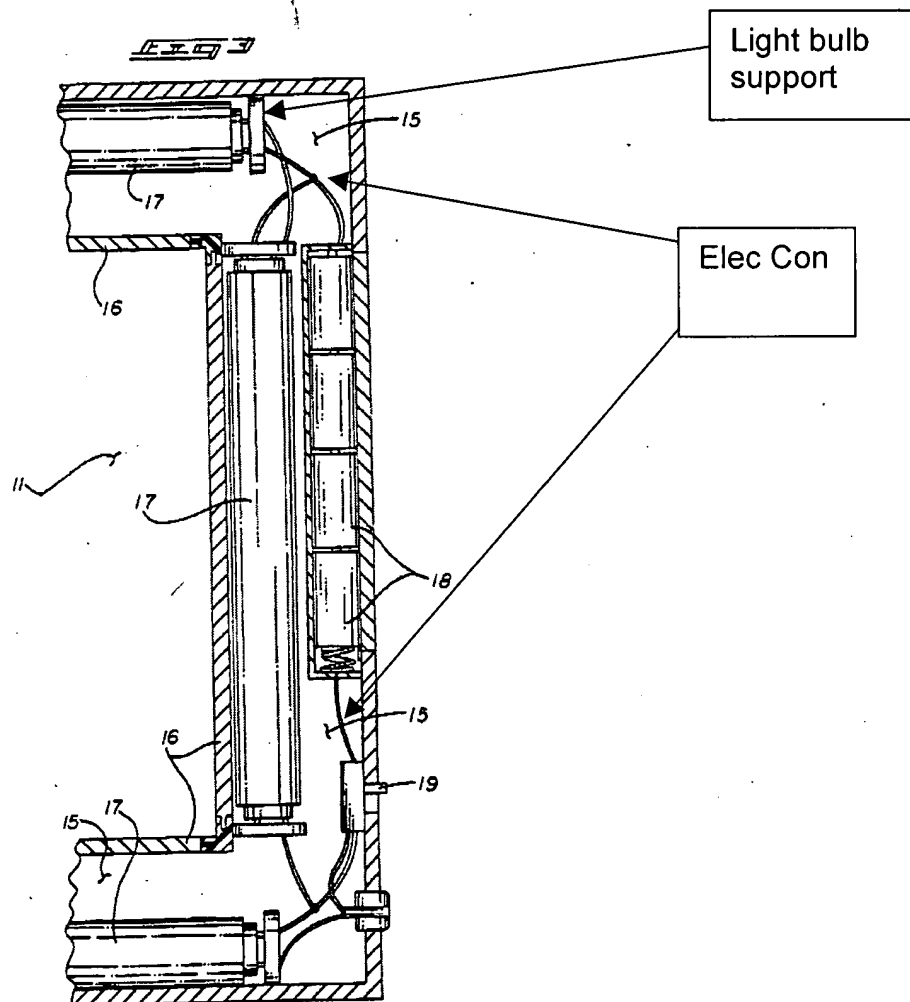
an electrical connection (Elec Con, see Examiner's annotated Figure 3) located within the frame structure as part of the frame structure that connects the power control mechanism/device (19) and the light source (17).

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Warner does not teach wherein the power control mechanism is variable and varies the intensity of the light source to vary.

Smallegan teaches an automatic nightlight wherein a circuit applies a voltage to switch 19 that is inversely proportionate to the ambient light level sensed by light sensitive device 23. Thus, the circuit modulates the light output of lamp 18 with respect to the ambient light level. This will allow more light when the room light level is darker.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the picture frame of Warren to include a power control mechanism that varies with respect to the ambient light and therefore allows the light output to vary as a result of the ambient light.

Note the wiring and light bulb support (see Examiner's annotated Figure 3) are considered part of the frame structure where they are attached to the frame structure.

Note the intensity of the light source is controlled by the ambient light external to the nightlight, see column 2, lines 29-38.

Note for claim 16:

Warner does not teach providing a solar charged power source.

Warner uses a battery, and batteries are generally known to be chargeable by solar power as well as by power from a power outlet. Charging the battery from solar power allows for battery charging and recharging while away from a power outlet, which would be useful if the viewer is in a remote location, such as while camping.

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It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the picture frame with integrated power control and lighting of Warner to include providing a battery that is chargeable by solar power to allow for battery charging and recharging while away from a power outlet.

Note, as indicated above the limitations of claims 16-21 are understood to be provided by the invention disclosed in claims 1-15 and 22.

Note that Warner is understood to teach the frame structure is made from plastic where in Figure 2 of the drawings of Warner, which are part of the specification, the frame cross-hatching represents plastic.

Further, note that Warner is understood to teach the frame structure is made from metal where in Figure 3 of the drawings of Warner, which are part of the specification, the frame cross-hatching represents metal.

Note, while no image is shown in Warner, Warner clearly teaches the invention is directed to project illumination onto a central picture mounted about the central support (11), see column 1, lines 41-47, where the picture is for viewing.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schwartz teaches a light sensitive electrical device. Janda et al. teaches a control circuit .

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7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Royal whose telephone number is 571-272-6652. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.




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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



P. Royal  
6/15/2005

Paul Royal  
Examiner  
Art Unit 3611

  
**JOANNE SILBERMANN**  
**PRIMARY EXAMINER**